

FILED: August 2, 2004

PUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-4253

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MOHAMAD YOUSSEF HAMMOUD, a/k/a Ali Albousaleh,
a/k/a Ali Abousaleh,

Defendant - Appellant,

CENTER FOR CONSTITUTIONAL RIGHTS; NATIONAL
COALITION TO PROTECT POLITICAL FREEDOM;
NATIONAL ASSOCIATION OF CRIMINAL DEFENSE
LAWYERS; NATIONAL LAWYERS GUILD,

Amici Supporting Appellant.

ORDER

After oral argument was heard by a panel of judges, a majority of the judges in active service voted to hear this appeal en banc. The en banc court heard argument on the matter on August 2, 2004.

According to the vote of a majority of the en banc court constituted to hear this appeal, we affirm the judgment and hold that Blakely v. Washington, 124 S. Ct. 2531 (2004), does not operate to invalidate Hammoud's sentence under the federal Sentencing Guidelines. Therefore, district courts within the Fourth Circuit are hereby instructed to continue sentencing defendants in accordance with the guidelines, as was the practice before Blakely. In the interest of judicial economy, however, and pending a definitive ruling by the Supreme Court, we recommend that district courts within the Fourth Circuit also announce, at the time of sentencing, a sentence pursuant to 18 U.S.C.A. § 3553(a) (West 2000 & Supp. 2004), treating the guidelines as advisory only.

Majority and dissenting opinions will follow in due course.

Entered at the direction of Chief Judge Wilkins, with the concurrence of the court.

For the Court

/s/ Patricia S. Connor
Clerk